

EXHIBIT D

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

C.A. NO. 04 CV 10632 MEL

* * * * *

MARY B. SMITH,

Plaintiff,

vs.

DAVID C. NICHOLSON, TRUSTEE OF THE D.J.J.

REALTY TRUST, DOMINIC M. SAWICKI, TRUSTEE

OF THE DOMINIC M. SAWICKI NOMINEE TRUST,

and CAROL ANN WHITNEY and GLENN WHITNEY,

Defendants.

* * * * *

DEPOSITION OF DAWN DINNAN, a witness

called on behalf of the Defendants, pursuant to

Massachusetts Rules of Civil Procedure, before Patricia

A. Arria, a Notary Public in and for the Commonwealth of

Massachusetts, at the Law Offices of Curley & Curley,

27 School Street, Boston, Massachusetts, on Thursday,

October 6, 2005 commencing at 5:41 p.m.

LAPLANTE & ASSOCIATES, INC.

(508) 999-7499

1 adult and a child but I'm not positive about that but
2 that's what my memory is. And I've already forgotten
3 what the question was. Oh, so I saw her walking.

4 Q. You saw her walking, is it fair to say that at
5 that point you were 20, 30 feet behind her?

6 A. Probably more because, you know, I was gaining on
7 them, they were walking slower than we were. More
8 slowly than we were.

9 Q. Do you recall if she was holding anybody's hand.

10 A. I don't recall if she was holding anyone's hand.
11 I think she was next to the child, on the right-hand
12 side of the child with her back to me. So she and the
13 child and the adult. But, again, it's kind of vague.

14 Q. Do you recall if she was using any kind of walker
15 or cane?

16 A. I believe she wasn't.

17 Q. Did you notice if she was having any difficulty
18 walking?

19 A. I more noticed her age. I didn't notice that she
20 was having trouble walking.

21 Q. Would it be possible for you to mark on Exhibit 1
22 where Mrs. Smith was when you first saw her?

23 A. To the best of my memory.

24 Q. When she was still walking?

1 A. To the best of my memory I can.

2 (Witness complies.)

3 A. I believe it was in this vicinity.

4 Q. And that would be beneath the 225 mark on Lot 18;
5 is that correct?

6 A. Yeah. It was -- I don't think it was any more
7 than -- I don't think their house was visible from where
8 we were. So depending on how it slopes, it could have
9 been further up here. I'm not too sure.

10 Q. Do you recall Olde Lantern Lane having a slope or
11 a decline?

12 A. It definitely had a slope.

13 Q. When you first saw Mrs. Smith walking, had she
14 begun the decent on the slope or was she still on the
15 flatter part of the road that led from Olde Homestead?

16 A. I'm not sure.

17 Q. At some point in time did you see Mrs. Smith
18 fall?

19 A. Probably peripherally I saw her going down but I
20 wasn't looking right at her. I think I was talking and
21 carrying this casserole and I think I saw it out of the
22 corner of my eye and I remember saying to my husband,
23 "Terry, you need to help her" because I knew he's
24 trained, he's a police officer and he said -- I believe

Wm. H. Warwick & Associates, Surveyors

May 15, 1989

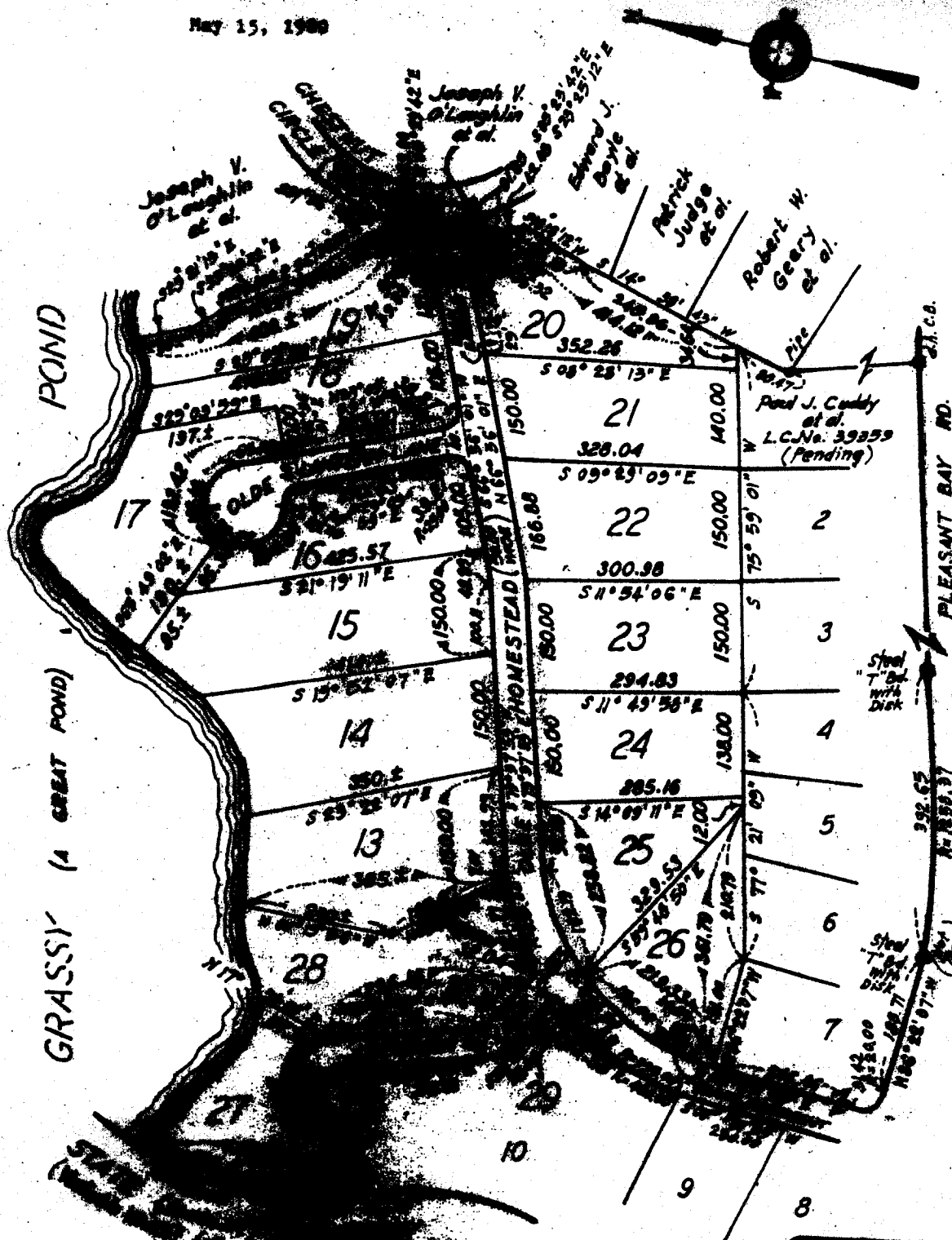


EXHIBIT
N-6-85
Diamond

Boundaries are shown as
an original survey plan.

Surveyed by
Wm. H. Warwick & Associates
Surveyors
1000 Main Street
New Bedford, Massachusetts 01905